IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 592 OF 2006 (MS)

1. Smt. Rayeesha Khatoonj, W/o late Mohd., Yasin.
2. Istkhar Ahmad, S/o late Mohd. Yasin,
3. Km. Sabana, D/o late Mohd. Yasin,
4. Km. Afsana aged about 16 years (Minor),
   D/o late Mohd. Yasin, through mother and natural guardian, Smt. Rayeesha Khatoon, All R/o Village and Post-Bhaguwala, P.s. Mandawali, Tehsil-Naziabadad, District- Bijnor (U.P) .....Petitioners.

Versus

1. Motor Accident and Claims Tribunal/ District Judge, Pauri Garhwal.
2. Sanwari Lal Sah, Tehri Road, Uttarkashi,
   Owner Truck No. UA10, 4634,
   At present R/o Badrinath Road,
   Near Railway Reservation Office, Joshimath, District-Chamoli.
3. Oriental Insurance Company Ltd., Through Its Branch Manager, Branch Office-Srinagar, District-Pauri Garhwal (Uttaranchal). .....Respondents.

Dated 18.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Lok Pal Singh, Advocate for the petitioner and standing counsel for the respondent no. 1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order-dated 04.05.2006 (Annexure No. 7 to the writ petition) passed by the respondent no. 1.

Briefly stated, the petitioner has raised a plea that in pursuance of Section 166 (2) of the Motor Vehicles Act, the petitioner is entitled to file the present claim petition at Pauri Garhwal as the Oriental Insurance Company Ltd. as its office there at Pauri Garhwal.

Section 166 (2) of the Motor Vehicles Act is quoted below:-

"[(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the claims Tribunal having jurisdiction over the area in which the accident...incurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under Section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant]."

Counsel for the petitioner has stated that he is covered under Section 166(2) as defendant resides at the place where the cause of action has accrued.

In view of the aforesaid facts and circumstances, the petitioner is permitted to file an application for reconsideration of the order dated 4th May, 2006 before the

District Judge Pauri Garhwal, if such an application is made, the same shall be considered on merits after taking into consideration the provisions of Section 166 (2) of the Motor Vehicles Act.

Writ petition is disposed. No order as to costs.

(Rajesh Tandon, J.)

18.05.2006
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